IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 8890 of 2005

Between:

Prapurn Committee Aided Upper Primary School, Ummareddygunta, Urban Range, Nellore, rep., by its Correspondent Smt.K.Irenemma, w/o K.Solomon, aged about 65 years, r/o Ummareddygunta, Urban Range, Nellore.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, rep., by its Secretary, School Education Department, Secretariat, Hyderabad.
2 The Commissioner and Director of School Education, A.P., Hyderabad.
3 The District Educational Officer, Nellore.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction or writ specially WRIT OF MANDAMUS declaring the proceedings Rc.No.3162/C1/2003 dt. 14-12-2004 of 3rd respondent as illegal, arbitrary and unjust and consequently direct the respondents 1 to 3 to approve the Selected Candidate to aided Secondary Grade Teacher Post as per the selection made by the Staff Selection Committee on 13-10-2004 not withstanding the ban imposed under the Memo dt.20-10-2004 forthwith, and pass such other or further orders as this Hon'ble Court may deems fit and proper.

Counsel for the Petitioner : MR. RAJ KUMAR RUDRA

Counsel for the Respondents : GP FOR EDUCATION

The Court at the stage of admission made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.8890 OF 2005

ORDER :

This writ petition is filed seeking a Writ of Mandamus declaring that the proceedings of the 3rd respondent – The District Educational Officer, Nellore, dated 14-12-2004 as arbitrary and illegal. The petitioner also seeks a consequential direction to the respondents 1 to 3 to approve the Selected Candidate to Aided Secondary Grade Teacher Post as per the selection made by the Staff Selection Committee on 13-10-2004 notwithstanding the ban imposed under the Government Memo dated 20-10-2004.

It is stated that one Aided Secondary Grade Teacher Post fell vacant in the petitioner School and for filling up the said post, the petitioner has already taken all the

necessary steps and the Competent Authority has also accorded the necessary permission. In pursuance thereof, the petitioner published notification inviting applications from eligible candidates apart from the candidates sponsored by the Employment Exchange. Call letters were also sent to the applicants, however the further steps could not be taken in view of the General Ban on Recruitment imposed by the Government under the Memo dated 20-10-2004.

The contention of the petitioner is that the General Ban under Memo dated 20-10-2004 cannot be made applicable to the case on hand since the Competent Authority has accorded necessary permission to fill-up the posts much prior to the ban imposed under the Memo dated 20-10-2004. In support of the said contention, the learned Counsel for the petitioner has relied upon a decision of this Court in W.P.No.22188 of 2004, wherein this Court has dealt with an identical issue. This Court, having considered the scope of Memo dated 20-10-2004, held that in the Memo dated 20-10-2004 though it is stated that no new posts of grant-in-aid would be created and the existing vacancies will also not be filled up, in the very same Memo it is stated that the general ban is not applicable for the posts for which permission was specifically granted by the Government and accordingly permitted the petitioner therein to proceed with the selection process notwithstanding the ban imposed under the Memo dated 20-10-2004.

The learned Counsel for the petitioner submits that the ratio laid down in the said decision squarely applies to the case on hand and therefore the petitioner may be permitted to fill up the vacancies in question notwithstanding the ban imposed under Government Memo dated 20-10-2004.

The learned Government Pleader for School Education appearing for the respondents does not dispute the same.

Accordingly, the impugned order dated 14-12-2004 is set aside and the Writ Petition is disposed of with a direction to the respondents 1 to 3 to approve the selected candidates to the Aided Secondary Grade Teacher Posts made by the Staff

Selection Committee in accordance with law notwithstanding the ban imposed under the Government Memo dated 20-10-2004. No costs.

21st April, 2005.

gbs

To

1 The Secretary, Government of Andhra Pradesh, School Education Department, Secretariat, Hyderabad.
2 The Commissioner and Director of School Education, A.P., Hyderabad.
3 The District Educational Officer, Nellore.

4. Two CCs to G.P. for Education, High Court of AP Bldgs, Hyderabad (OUT).

5. Two CD copies.